

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:13-CV-527-BO

U.S. TOBACCO COOPERATIVE, INC.,)
et al.,)

Plaintiffs,)

v.)

ORDER

BIG SOUTH WHOLESALE OF)
VIRGINIA, LLC, *et al.*,)


Defendants.)

On September 13, 2017, defendants Big South Wholesale of Virginia, Big South Wholesale, Jason Carpenter, and Christopher Small entered a notice of appeal of this Court's order granting plaintiffs' renewed motion to reconsider the Court's November 7, 2016, order on defendants' petition to substitute the United States as a defendant in this matter.

"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). Although parties and issues remain for adjudication in this case which are not the subject of the appeal, because the interlocutory appeal concerns absolute immunity, and the assertion of immunity is not frivolous, the Court in its discretion has determined that stay of the underlying proceedings in this Court is appropriate. *Apostol v. Gallion*, 870 F.2d 1335, 1338 (7th Cir. 1989); *see also Stewart v. Donges*, 915 F.2d 572, 576 (10th Cir. 1990).

Accordingly, this action is STAYED pending resolution of the appeal. The parties shall jointly notify this Court within ten (10) days of the filing of the Fourth Circuit's mandate of the posture of the case and the issues which remain for adjudication.

SO ORDERED, this 25 day of September, 2017.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE